

## § 5410.0-6

constructs a road pursuant to a permit issued under Subpart 2800 of this chapter, or (2) a contractor who is constructing a road with Government funds.

(c) In addition to paragraph (b) of this section, negotiated sales with no limitations as to volume may be made if:

(1) The contract is for the disposal of materials to be used in connection with a public works improvement program on behalf of a Federal, State or local government agency and the public exigency will not permit the delay incident to advertising; or if

(2) The contract is for the disposal of timber or other vegetative resources, for which it is impracticable to obtain competition.

(d) All negotiated sales shall be subject to the restrictions relating to the export and substitution from the United States of unprocessed timber. Timber purchased for right-of-way purposes will not be subject to substitution restrictions.

(Sec. 5, 50 Stat. 875, 61 Stat. 681, as amended, 69 Stat. 367; 43 U.S.C. 1181e, 30 U.S.C. 601 *et seq.*)

[35 FR 9784, June 13, 1970, as amended at 41 FR 12660, Mar. 26, 1976; 56 FR 10175, Mar. 11, 1991]

## PART 5410—ANNUAL TIMBER SALE PLAN

### Subpart 5410—Annual Timber Sale Plan; General

#### § 5410.0-6 Policy.

Plans for the sale of timber from the O. and C. and public lands will be developed annually. Suggestions from prospective purchasers of such timber may be received to assist in the development of a sound annual timber sale plan. Such plan may be advertised in a newspaper of general circulation in the area in which the timber is located. Such advertisement shall indicate generally the probable time when the various tracts of timber included in the plan will be offered for sale, set-asides if any, and the probable location and anticipated volumes of such tracts. The authorized officer may subsequently

## 43 CFR Ch. II (10-1-96 Edition)

change, alter or amend the annual timber sale plan.

[35 FR 9785, June 13, 1970]

## PART 5420—PREPARATION FOR SALE

### Subpart 5420—Preparation for Sale; General

Sec.

5420.0-6 Policy.

#### Subpart 5422—Volume Measurements

5422.1 Cruise sales.

5422.2 Scale sales.

#### Subpart 5424—Preparation of Contract

5424.0-6 Policy.

5424.1 Reporting provisions for substitution determination.

AUTHORITY: 61 Stat. 681, as amended, 69 Stat. 367; Sec. 5, 50 Stat. 875; 30 U.S.C. 601 *et seq.*; 43 U.S.C. 1181e.

SOURCE: 35 FR 9785, June 13, 1970, unless otherwise noted.

### Subpart 5420—Preparation for Sale; General

#### § 5420.0-6 Policy.

All timber or other vegetative resources to be sold shall be appraised and in no case shall be sold at less than the appraised value. Measurement shall be by tree cruise, log scale, weight, or such other form of measurement as may be determined to be in the public interest.

#### Subpart 5422—Volume Measurements

##### § 5422.1 Cruise sales.

As the general practice, the Bureau will sell timber on a tree cruise basis.

##### § 5422.2 Scale sales.

(a) Scaling by the Bureau will be used from time to time for administrative reasons. Such reasons would include but not be limited to the following: To improve cruising standards; check accuracy of cruising practices; for volumetric analysis; and for highly defective timber where it is impossible to determine the tree cruise volume within a reasonable degree of accuracy.

(b) Third party scaling may be ordered by the Bureau after a determination that all of the following factors exist: (1) A timber disaster has occurred; (2) a critical resource loss is imminent; (3) measurement practices listed in §5422.1 and paragraph (a) of this section are inadequate to permit orderly disposal of the damaged timber. Third party scaling volumes must be capable of being equated to Bureau standards in use for timber depletion computations, to insure conformance with sustained yield principles.

### Subpart 5424—Preparation of Contract

#### §5424.0-6 Policy.

(a) All timber sales shall be made on contract or permit forms approved by the Director, BLM.

(b) Other than for incidental use, the severance and/or removal of any vegetative resource for personal or commercial use requires a written contract or permit issued by the authorized officer or other person authorized by the United States. All contracts or permits shall contain the following:

(1) The name of the purchaser or his/her authorized representative with complete mailing address.

(2) The specific vegetative resources authorized for removal and their respective quantities and values.

(3) The specific location from which the vegetative resources are to be removed.

(4) The term for which the contract or permit is valid.

(5) Contract or permit conditions and stipulations.

(6) Signature of purchaser or authorized representative.

(c) The authorized officer may include additional provisions in the contract or permit to cover conditions peculiar to the sale area, such as road construction, logging methods, silvicultural practices, reforestation, snag felling, slash disposal, fire prevention, fire control, and the protection of improvements, watersheds, recreational values, and the prevention of pollution or other environmental degradation.

(d) The contract or permit from and any additional provisions shall be made

available for inspection by prospective bidders during the advertising period. When sales are negotiated, all additional provisions shall be made part of the contract or permit.

(e) Except for such specific quantities of grades and species of unprocessed timber determined to be surplus to domestic lumber and plywood manufacturing needs, each timber sale contract shall include provisions that prohibit:

(1) The export of any unprocessed timber harvested from the area under contract; and

(2) The use of any timber of sawing or peeler grades, sold pursuant to the contract, as a substitute for timber from private lands which is exported or sold for export by the purchaser, an affiliate of the purchaser, or any other parties.

[56 FR 10175, Mar. 11, 1991]

#### §5424.1 Reporting provisions for substitution determination.

(a) To determine whether substitution has occurred, the authorized officer may require that information identified in the contract be reported by:

(1) A purchaser who has exported private timber within one year preceding the purchase date of Federal timber, and/or

(2) An affiliate of a timber purchaser who exported private timber within one year before the acquisition of Federal timber from the purchaser.

(b) Purchasers or affiliates of purchasers shall retain a record of Federal timber acquisitions and private timber exports for three years from the date the activity occurred.

(Information collection requirements contained in paragraph (a) were approved by the Office of Management and Budget under control number 1004-0058)

[46 FR 29263, June 1, 1981]

### PART 5430—ADVERTISEMENT

#### Subpart 5430—Advertisement; General

AUTHORITY: Sec. 5, 50 Stat. 875, 61 Stat. 681, as amended, 69 Stat. 367; 43 U.S.C. 1181e, 30 U.S.C. 601 *et seq.*